TeamLease® RegTech
Helping India Comply

Simplifying Compliance Management for

THE LOGISTICS & SUPPLY CHAIN INDUSTRY

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Introduction

Logistics is an inherently crucial component that is necessary for a nation's economy to function. A sound logistical infrastructure ensures efficiency in the gathering, storage, transportation, and delivery of resources. Logistics encompasses all aspects of the supply chain including transportation, inventory management etc. The industry is a determining factor in the effectiveness of the nation's supply chain. The logistics industry accounts for around 14% of GDP with over 22 million people reliant on it for their livelihood. The logistics industry in India was valued at $190 billion in 2019 (IBEF) and is expected to reach $215 billion by 2024 (Invest India).

Logistics and supply chain companies have become the modern porters of the world. Another key aspect of the industry is warehousing facilities. The warehousing sector on its own is set to reach $20 billion by 2025. In FY22, the average warehousing rent in major cities was around INR 220 per square meter (Statista).

SL. No.	City	Average Monthly Cost per Sq. meter (INR)
1	Pune	258
2	Mumbai	238
3	Kolkata	238
4	Chennai	236
5	Banglore	215
6	Hyderabad	215
7	Delhi NCR	204
8	Ahmedabad	174

In Q1 2022, a grade-A warehousing space in Mumbai and Kolkata cost INR 2,115 per sq ft for construction. The cost for the construction of a similar space in Pune cost INR 2,100 per sq ft. (Savills India).

Keeping the importance of logistics and supply chain in mind, PM Narendra Modi recently launched the National Logistics Policy (NLP). The policy is aimed at lowering the cost of logistics and boosting the ease of doing business. It will promote the seamless movement of goods which will help bring down logistics costs from the current 16% of GDP to the global average of 8% by 2030. The industry is already experiencing a significant increase in the capacity of ports with the average turnaround time for cargo ships being reduced by 18 hours. 40 new air cargo airports have become operational and 30 have been upgraded with cold storage facilities to improve the export infrastructure of the country (PM India). Technological solutions to push paperless trade operations have been implemented to bring India within the top 25 countries in the Logistics Performance Index (LPI) by the end of the decade (India was ranked 44th in 2018). As of now the Indian logistics and supply chain industry consists of 37 export promotion councils, 40 Participating Government Agencies (PGAs), 20 government agencies, 10,000 commodities, and 500 certifications (IBEF).

Despite the tremendous growth in the logistics and supply chain industry, there are many regulatory challenges that have slowed down its progress. At the outset, companies in the industry are burdened with a large number of compliances fragmented across different levels and categories. The multiplicity of registrations, approvals, licences, permissions, consent orders, certifications, etc. involves complex and overlapping documentation. There is no central integrated portal that serves as a single point of information and compliance.

The laws and policies in India have hardly kept pace with technological progress. The major legislations – Multimodal Transportation of Goods Act, 1993; Carriage of Goods by Road Act, 2007; Carriage of Goods by Sea Act, 1925; Merchant Shipping Act, 1958; Carriage by Air Act, 1972 – have become outdated and require a reboot. Crucial aspects such as the demand gap in the demand and supply of skilled manpower in the logistics industry, limited storage, insufficient infrastructure and a highly unorganized workforce, are yet to be adequately addressed through legislation. The fate of several sunrise segments including last-mile deliveries for e-commerce, online grocery shopping, and express delivery, among others, hangs in balance as the government continues to deliberate on the right course of regulation.

The logistics and supply chain industry can gain further momentum only when these regulatory bottlenecks are addressed. The aspiration of becoming a US$ 5 trillion economy by 2025 with exports crossing US$ 2 trillion requires a relook at the ease of doing business for logistics and supply chain companies. This report aims to provide a brief insight into the state of the regulatory environment in the logistics and supply chain industry, discuss the challenges encountered by it and propose actionable recommendations to reduce its overall compliance burden.

Classification of Logistics and Supply Chain Industry

The logistics and supply chain industry has a broad scope extending across both the manufacturing and service sectors. The width of the industry can be classified into 8 major segments comprising both traditional and new-age services. These are outlined below.

Inbound Logistics

It is concerned with the in-flow of resources need to make a product or a service. It deals with managing suppliers, costs, inventory, and transportation to ensure that the required components arrive on time. Procurement is a major component of inbound logistics as it tackles the issue of sourcing and transporting raw materials.

Third-Party Logistics

It refers to the practice of outsourcing logistics operations to a third-party logistics company. The third party then handles everything from managing inventory to product delivery. Third-party logistics companies provide a wide range of services including, but not limited to, warehousing, transportation, and inventory management among other things.

Outbound Logistics

It refers to the delivery of the product/material to the customer/client. The outbound logistics capability of a company affects its customer satisfaction. Distribution channels and transportation systems are critical for this segment. The retail e-commerce sector is heavily reliant on outbound logistics.

Fourth Party Logistics

It involves the outsourcing of all logistical operations to a single logistics services provider. This provider is responsible for managing the entire logistics supply chain for the partner company. These companies are suitable partners for medium to large businesses. They are at a higher level than 3PL logistics suppliers and a 4P player can enlist, manage and coordinate the activities of other 3PL service providers. Shipping, distribution, warehousing, physical sites, and information flow are all managed by 4PL service providers. Major corporations like DHL, and Amazon, among others, provide 4PL logistics services.

Reverse Logistics

It involves the process of moving the product from the end-user back to the origin. This can be for recovering the value of the product or for disposal. Product returns, replacements, and exchanges are some examples of reverse logistics. Some of the major companies involved in providing reverse logistics include DHL, Mahindra Logistics, and Ecom Express among others. Reverse logistics can be further classified into 5 categories, namely, Returns/Exchanges, Reselling Returned Products, Repairs, Recycling, and Replacements. All major logistics companies in the country provide reverse logistics services.

Hyper Local Logistics

Hyperlocal logistics model is a sunrise segment in the logistics and supply chain sector that has grown alongside quick commerce. Delivery of services and goods within a few hours is facilitated by operating in small geographical areas. New-age startups providing online grocery delivery have allowed the segment to flourish. What started with companies like Ola, and Zomato building a hyperlocal service model has now transformed into a complete sector. The quick commerce market is set to reach a $5.5 billion market size by 2025 with companies like Dunzo, Shadow Fax, and Blowhorn among others leading the charge.

Last-Mile Logistics

Last-mile logistics consists of the processes involved in the transportation of a package from a fulfilment centre to its final destination. Last-mile logistics companies deliver the packages as quickly as possible in a cost-effective manner. Usually, last-mile carriers operate a fleet of vehicles to help deliver the packages. As per market estimations, the 'Last-Mile Logistics' sector is expected to become a $6 billion market in the next 2 years. Companies like Delhivery, Ekart, and Xpressbees among others are some of the well-known players in the segment.

Cold Chain Logistics

The Cold chain logistics sector uses technology to safely transport, store, and deliver temperature-sensitive goods. The sector is still in its infancy and is expected to grow at a CAGR of 9.7%. Perishable foods and pharmaceutical companies are the major industries that rely on cold chain logistics. Storage and transportation of vaccines, life-saving drugs, and food products require a robust and efficient cold chain logistics and supply chain network. Major players in this sector include Gati Kausar, Snowman Logistics, and ColdEx Logistics, among others.

The Indian logistics and supply chain industry has to abide by hundreds of compliance obligations. To begin with, forming a company involves several approvals spread over the course of four stages. First, in the 'setting-up stage', all procedures for incorporation of the legal entity (i.e. the company) must be completed. This is followed by the 'pre-commissioning stage', which involves land allotment approvals, project approvals, electricity approvals, labour safety and health approvals and tax-related registrations, among others. Thereafter, in the 'post-commissioning stage', utility and support facility approvals and industry-specific approvals must be obtained. Lastly, the 'post-production stage' entails all compliances pertaining to the commencement of operations.

Once a company is up and running, it is confronted with a wide range of compliances having varied frequencies. For instance, a logistics and supply chain company with a single corporate office and a single branch office in just one state must obtain at least 84 one-time registrations and permissions. It must also fulfil certain compliances on a recurring basis, which can be monthly, quarterly, half-yearly or annually. Furthermore, it must follow all ongoing compliances, which constitute 2 out of every 3 compliances applicable to the logistics and supply chain industry.

In addition to the aforementioned stages and frequencies, the nature of compliances also differs depending on their levels, categories and types. These are explained below.

Levels of Compliances

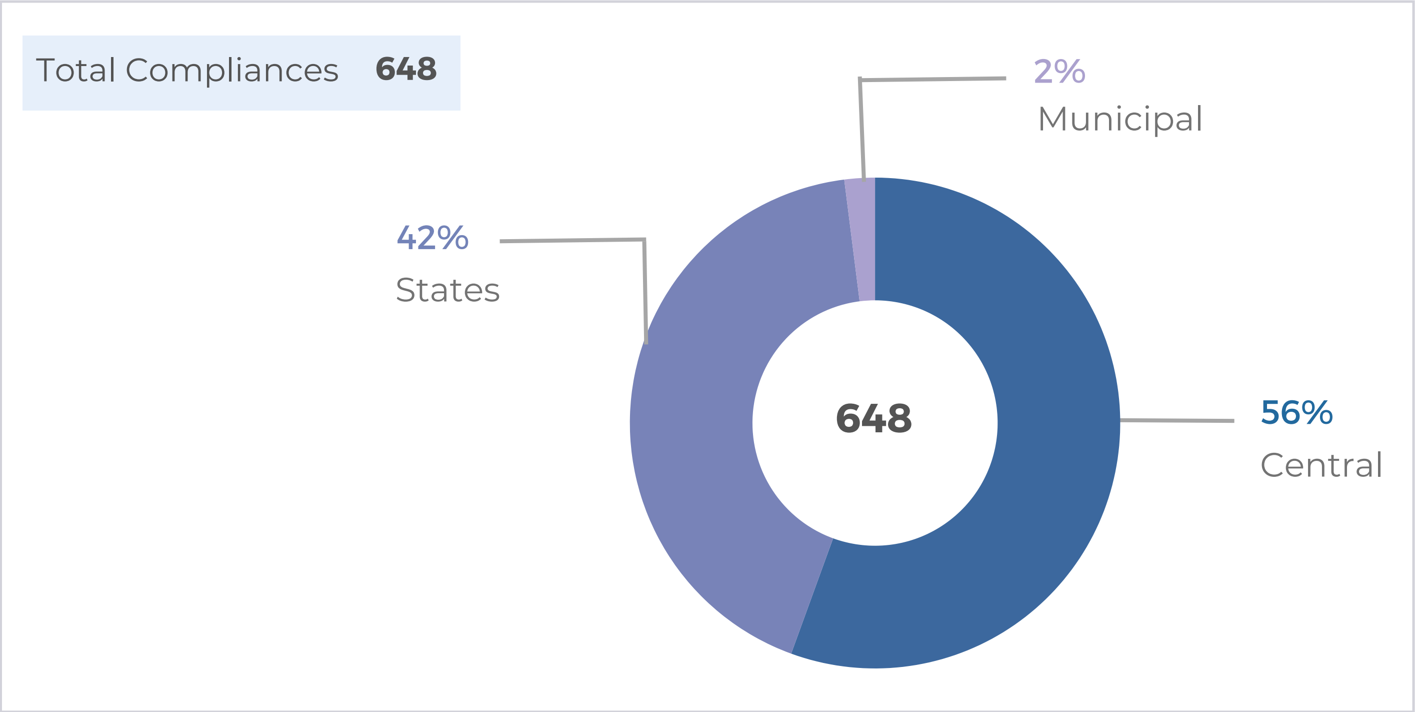
The overlapping distribution of legislative powers among the union and the states have added a layer of complexity to the regulatory framework. For instance, subjects such as 'labour' and 'electricity' fall under the concurrent list, allowing both the union and states to legislate on it. Hence, a company must comply with not only Union laws but also the laws of the state in which it operates. Similarly, 'land' is a state subject but 'transfer of property excluding agricultural land' falls under the concurrent list.

Yet another example is 'taxation'. In India, the power to impose and collect taxes on different matters has been spread across the union, state and concurrent lists.

Thus, some taxes (such as corporate tax) are payable to the union government while others (such as stamp duty) are payable to the state government. Some taxation powers (such as property tax) have also been devolved to municipal bodies.

This division of law-making authority across various levels of government has created three levels of compliance - union, state and municipal. On average, a logistics and supply chain company faces a total of 648 compliances, of which 56% are at the union level, 42% are at the state level and the rest 2% are at the municipal level.

Compliances at the union, state and municipal levels for a single corporate office and single warehouse in a single state



Source: Teamlease Regtech

Categories of Compliances

The extent of the compliance burden for a logistics and supply chain company can be broadly classified across seven categories. Each of these categories contains a variety of laws, rules and regulations with varying degrees of applicability depending on the size, nature and operations of the company. These categories are explained below.

Labour

This category includes 29 union laws that have now been consolidated into four labour codes. Since labour is a subject in the concurrent list, it is legislated upon by the union government and each of these laws is accompanied by a host of state legislations. There are also various delegated legislations such as rules and regulations both at the union and state levels. Some examples include:

- Apprentices Act, 1961 and Apprenticeship Rules, 1992
- Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
- Contract Labour (Regulation and Abolition) Act, 1970
- Employees' Compensation Act, 1923
- Employees' State Insurance Act, 1948
- Employees' State Insurance (General) Regulations, 1950 and Employees' State Insurance (Central) Rules, 1950
- Industrial Disputes Act, 1947
- Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- Maternity Benefit Act, 1961
- Minimum Wages Act, 1948
- Payment of Bonus Act, 1965 and Payment of Bonus Rules, 1975
- Payment of Gratuity Act, 1972
- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013

Secretarial

It covers all laws on corporate governance and risk management. The main legislation is the Companies Act, 2013, accompanied by various rules such as:

- Companies (Acceptance of Deposits) Rules, 2014
- Companies (Accounts) Rules, 2014
- Companies (Appointment and Qualification of Directors) Rules, 2014
- Companies (Audit and Auditors) Rules, 2014
- Companies (Corporate Social Responsibility) Rules, 2014
- Companies (Incorporation) Rules, 2014
- Companies (Management and Administration) Rules, 2014
- Companies (Meetings of Board and its Powers) Rules, 2014
- Companies (Registration of Charges) Rules, 2014
- Companies (Share Capital and Debentures) Rules, 2014 and Companies (Significant Beneficial Owners) Rules, 2018, among others.

Finance and Taxation

This category includes laws on direct taxes such as income tax, property tax and corporate tax and on indirect taxes such as goods and services tax (GST) and customs duty. Some key legislations are Income Tax Act, 1961 and Income Tax Rules, 1962, Central GST Act, 2017 and Central GST Rules, 2017 and state laws for taxes on professions, trades, callings and employment.

Environment, Health and Safety (EHS)

It covers all aspects related to the environment, including pollution, waste management and discharge of hazardous substances, among others. A majority of the compliances are contained in the Environment (Protection) Act, 1986 and its allied rules such as:

- Battery Waste Management Rules, 2022
- E-Waste (Management) Rules, 2016
- Environment (Protection) Rules, 1986
- Noise Pollution (Regulation And Control) Rules, 2000
- Plastic Waste Management Rules 2016
- Solid Waste Management Rules, 2016

Commercial

This category includes all laws overseeing the production and trade of goods and services. Some examples include:

- Collection of Statistics Act, 2008 and Collection of Statistics (Central) Rules, 1959,
- The Motor Vehicles Act, 1988 and Central Motor Vehicle Rules, 1989
- State legislation on electricity consumption

General

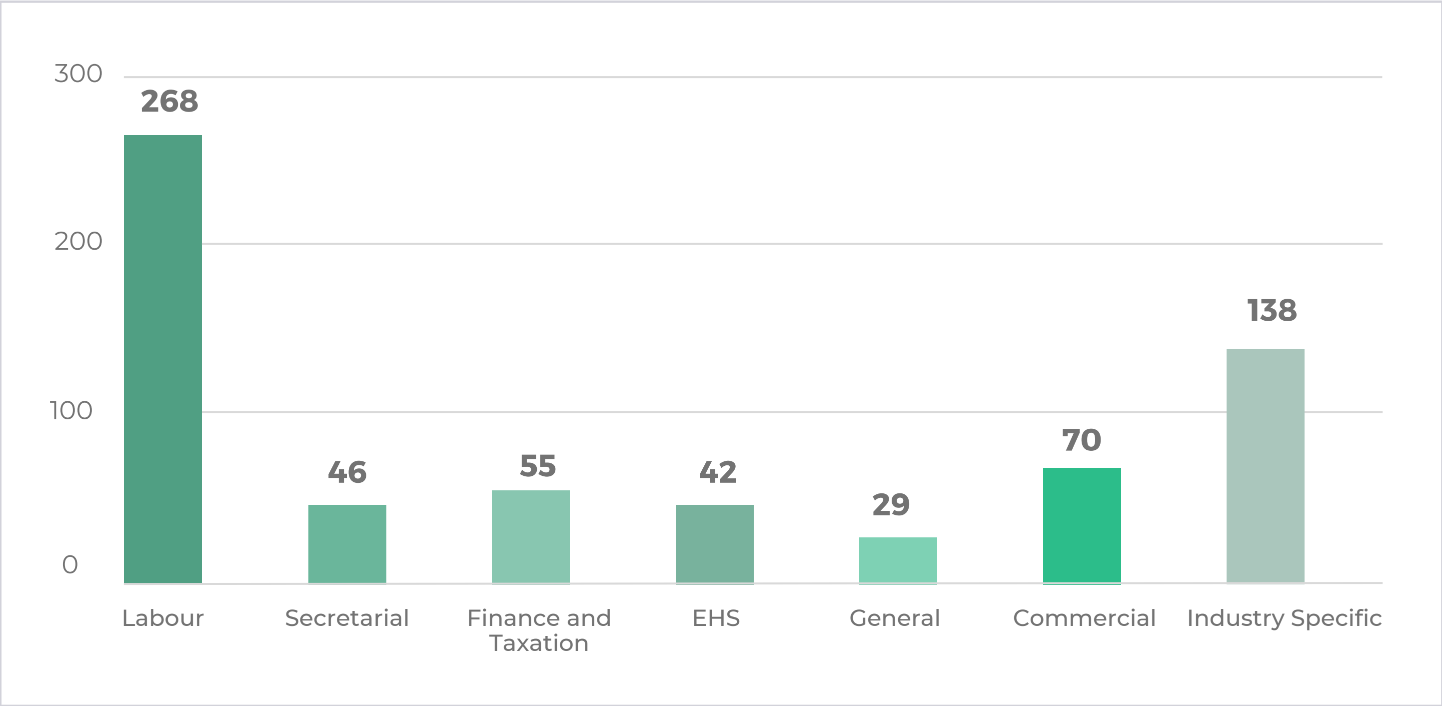
It includes compliances pertaining to specific laws such as the Cigarette and Other Tobacco Products (Prohibition of Advertisement and the Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and Prohibition of Smoking in Public Places Rules, 2008, Information Technology Act, 2000 and Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011. It also includes state-specific legislation on municipal corporations and public safety measures, among others.

Industry Specific

This category contains all the industry-specific legislations and compliances that are applicable to the logistics and supply chain industry. These specific regulations are discussed at some length in the section below. Predominantly, the overarching legislation for the logistics and supply chain industry is the Warehousing (Development and Regulation) Act, 2007 and Warehousing (Development and Regulation) Registration of Warehouses Rules, 2017, the Warehouse Manual for Operationalising of Warehousing (Development & Regulation) Act, 2007, and the Carriage by Road Act, 2007 and Carriage by Road Rules, 2011.

The industry players also need to follow the industry-specific regulations under the Electricity Act, 2003 and Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010, Food Safety and Standards Act, 2006, and specific state warehousing legislations and rules among others.

Category-wise compliances for a single corporate office and single warehouse facility in a single state



Source: Teamlease Regtech

Types of Compliances

Apart from the different levels and categories, the compliances for a logistics and supply chain company can also be classified according to their types. The main types of compliances are detailed below with relevant examples.

Audit and Accounts

There are different compliances for audits and accounts under different laws. Under the Companies Act, 2013, all listed companies and certain unlisted and private companies must appoint an internal auditor or firm of internal auditors to conduct internal audits of the functions and activities of the company.

As per the Secretarial Standard on General Meetings (SS-2) approved by the Central Government, any adverse qualifications, observations or comments on the financial transactions that are mentioned in the auditor's report must be read out at the Annual General Meeting.

Under the Information Technology Act, 2000 and Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011, a company must ensure annual auditing of reasonable security practices and procedures.

Certificates and Licences

Most of the requirements pertaining to certification and licencing are contained in the state and municipal laws. For instance, a logistics and supply chain company in the state of Karnataka is required to obtain a trade licence and renew it on an annual basis in accordance with the Karnataka Municipal Corporations Act, 1976. It must also apply for the necessary permissions to display any outdoor self-advertisement. Additionally, the Karnataka Shops and Commercial Establishments Act, 1961 requires an establishment to obtain a registration certificate and renew it every 5 years. Under the Karnataka Fire Forces Act, 1964, it is mandatory to obtain a Fire Safety Certificate and renew it once every 2 years.

Apart from these, there are certain compliances at the union level. Under the Motor Vehicles Act, 1988 and Central Motor Vehicle Rules, 1989, an establishment must obtain a registration certificate and insurance policy for any motor vehicles owned by it. It must also obtain a 'pollution under control' certificate every 6 months.

Display requirements

A majority of the display requirements are contained under labour laws. For example, laws such as the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, Employees Compensation Act, 1923, Maternity Benefit Act, 1961, Minimum Wages Act, 1948 and Payment of Gratuity Act, 1972 make it mandatory for an employer to display an abstract of the Act and Rules within the establishment. The Minimum Wages Act, 1948 and Contract Labour (Regulation and Abolition) Act, 1970 impose additional requirements such as displaying notice regarding the rates of wages, dates of payment of wages and rest days.

The Rights of Persons with Disabilities Act, 2016 requires employers to display an equal opportunity policy for disabled persons. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 mandates the display of a flow chart of the sexual harassment complaint redressal process and the names and contact details of the members of the Internal Committee.

Certain display requirements are also contained in the Central Goods and Services Tax Act, 2017. These include displaying the certificate of registration at a prominent location on the business premises and the Goods and Services Tax Identification Number (GSTIN) on the name board at the entrance of the business premises.

Employee Safety & Welfare

Several provisions have been made under the Minimum Wages Act, 1948 such as providing explanations about proposed fines or deductions, intimating the amount of fines or deductions and giving wages for rest days in case the employee was given a substituted rest day.

Under the Maternity Benefit Act, 1961, a company employing 50 or more employees must provide crèche facilities with all necessary arrangements and supplies and allow 4 crèche visits per day to women employees. It must also permit 2 nursing breaks of 5-15 minutes until the child attains the age of 15 months.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 makes provisions regarding skill-building programmes and seminars for the Internal Committee members, dissemination of internal policy for promoting gender-sensitive safe spaces and awareness workshops for employees.

Examination, Inspection and Testing

Certain requirements for examination, inspection and testing have been prescribed under the Bureau of Indian Standards Act, 2016. These include monthly inspections and testing of all mechanical parts, extinguishing media and expelling means of fire extinguishers to be carried out by properly trained and competent personnel. In premises where Diesel Generator (DG) sets are used, the Environment (Protection) Act, 1986 mandates a proper routine to be set to prevent the deterioration of noise levels.

Registers and Records

There are a variety of compliances related to the maintenance of registers and records under labour laws. The Contract Labour (Regulation and Abolition) Act, 1970 requires employers to maintain a register of contractors.

The Payment of Bonus Act, 1965 requires maintaining a register showing the computation of allocable surplus, set-on and set-off of allocable surplus and bonus payable. The Minimum Wages Act, 1948 lays down compliances for maintaining an inspection book and a register of wages, fines and overtime. Under the Employees' State Insurance Act, 1948, an employer must maintain a register of employees, accident book, inspection book, and identity cards of employees.

Besides the foregoing, it is mandatory to maintain records of the inspection and testing of fire extinguishers including their operational history under the Bureau of Indian Standards Act, 2016.

Return Filing, Disclosures and Intimations

The compliances for return filing, disclosures and intimations are primarily contained in the labour laws. For instance, annual returns must be filed under the Employees' Compensation Act, 1923, Maternity Benefit Act, 1961, Minimum Wages Act, 1948 Payment of Bonus Act, 1965, Contract Labour (Regulation and Abolition) Act, 1970 quarterly returns under the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959.

The Rights of Persons with Disabilities Act, 2016 requires registration of a copy of the equal opportunity policy with the Chief Commissioner or the State Commissioner. As per the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the Internal Committee must prepare and submit a report to the employer and district officer. The Contract Labour (Regulation and Abolition) Act, 1970 requires the employer to submit a Unified Annual Return. Under the Industrial Dispute Act, 1947, it is compulsory to submit a half-yearly report on the constitution and functioning of the Works Committee to the Labour Officer.

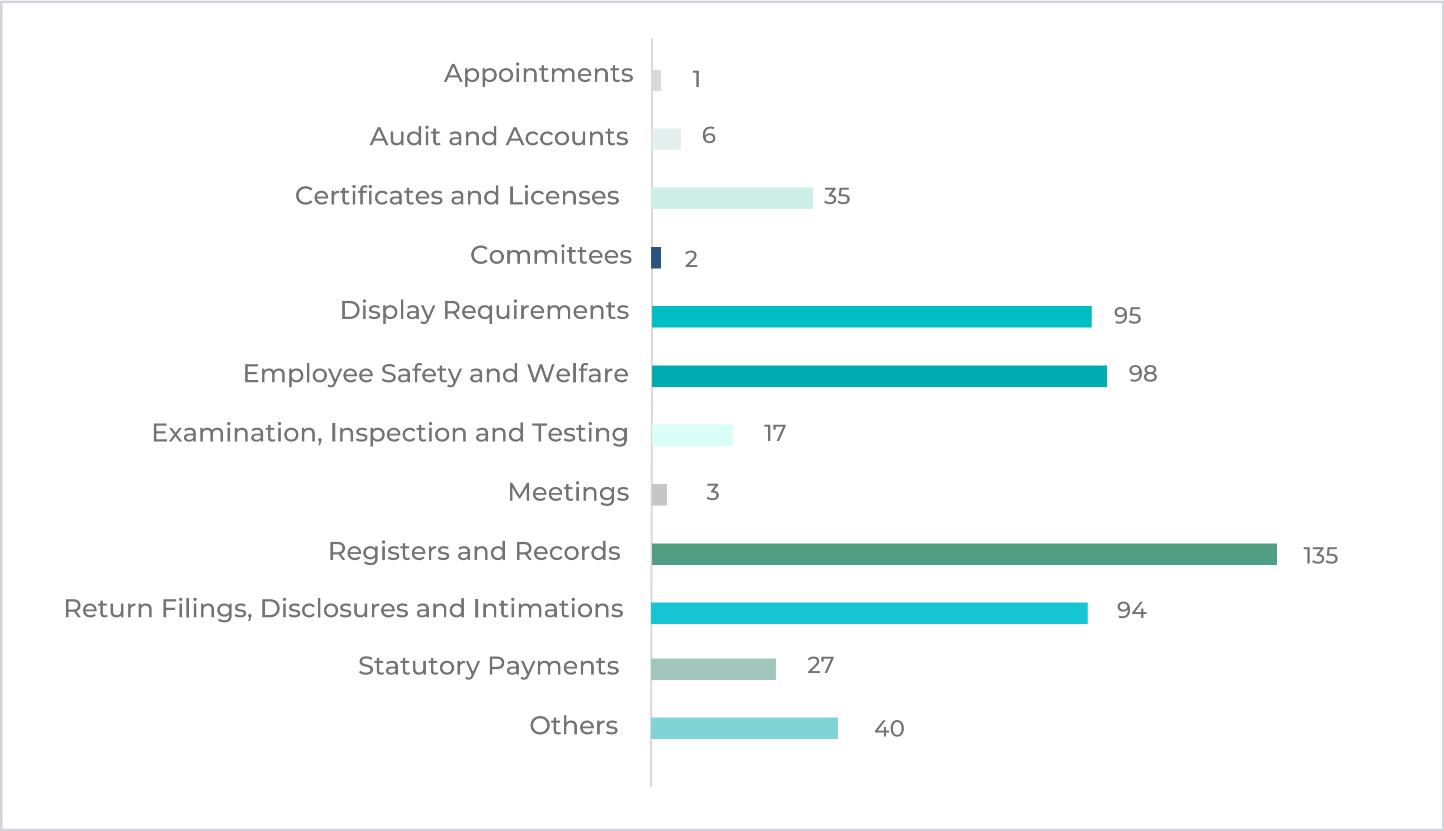
Among the non-labour compliances, the Collection of Statistics Act, 2008 and Collection of Statistics (Central) Rules, 1959 mandate furnishing returns in the prescribed format to the Statistics Authority.

Statutory Payments

Under the Employees' State Insurance Act, 1948, an employer must make monthly contributions in respect of an employee to the Employees' State Insurance Corporation via electronic mode. Certain statutory payments are also prescribed under the Minimum Wages Act, 1948, Payments of Bonus Act, 1965 and Apprentices Act, 1961.

Various municipal and state laws also prescribe statutory payments to be made for property tax, advertising permit fees, Labour Welfare Board contributions and electricity consumption tax, among others.

Type-wise compliances for a single corporate office and single warehouse in a single state



Source: Teamlease Regtech

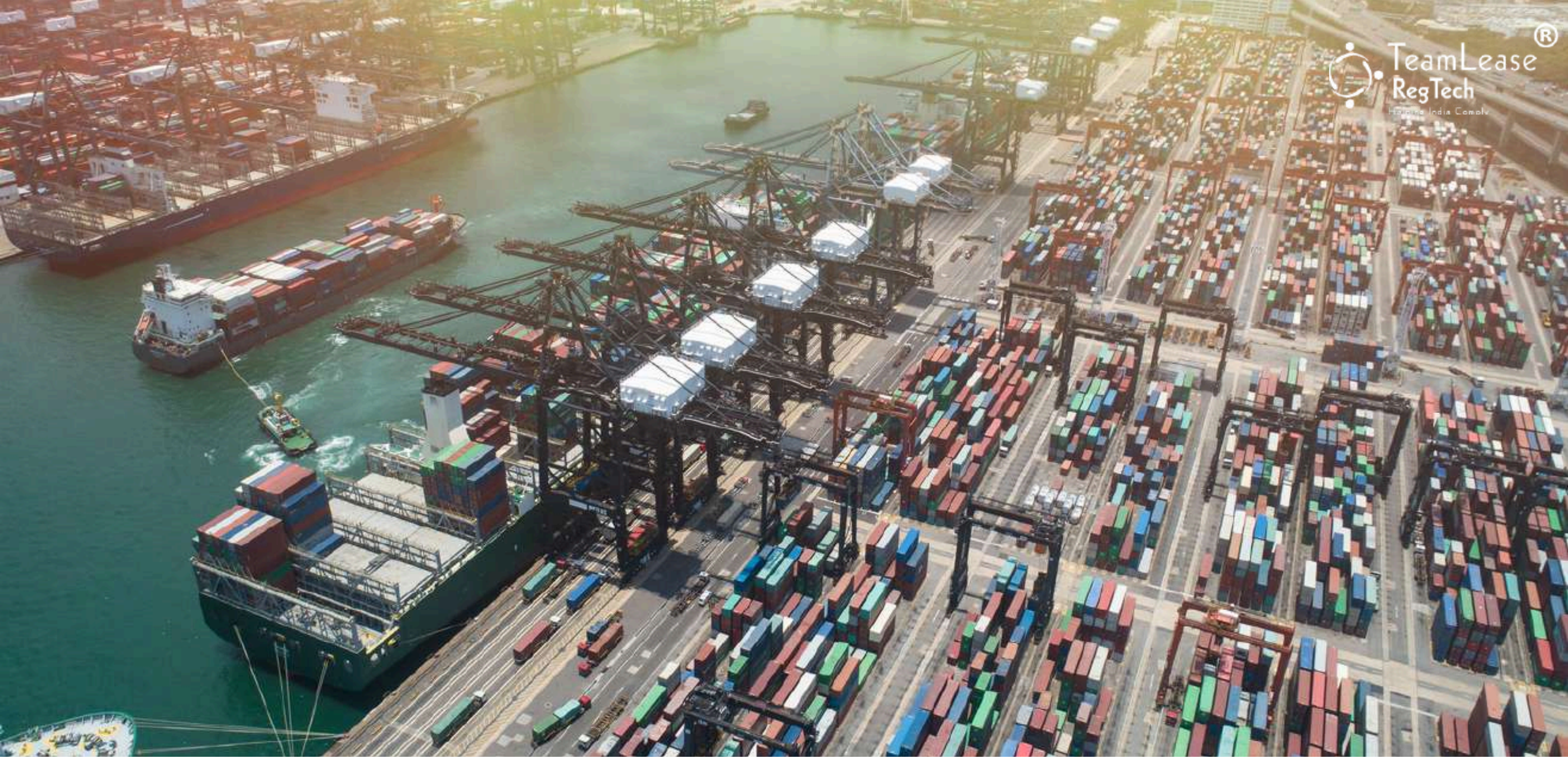
Industry-Specific Compliances for Logistics and Supply Chain Companies

Outside of the general compliances outlined above, logistics and supply chain companies are also subject to a host of Industry-Specific compliance requirements. The majority of regulations for the industry come from the Warehousing (Development and Regulation) Act, 2007 and Warehousing (Development and Regulation) Registration of Warehouses Rules, 2017, the Warehouse Manual for Operationalising of Warehousing (Development & Regulation) Act, 2007, and the Carriage by Road Act, 2007 and Carriage by Road Rules, 2011. When it comes to a logistics warehousing facility, some of the applicable regulations are presented below:

- Quarterly disclosures to the WDRA (Warehousing Development and Regulatory Authority) if there is a change in the net worth of the company
- Obligation to have insurance coverage against the various risks associated with the goods deposited in the warehouse
- Various infrastructure requirements of the warehouse as specified by the WDRA
- Obligation maintain the quality and quantity of goods stored in the warehouse
- Obligation to maintain complete and accurate records and accounts of all transactions
- Maintenance of equipment required for warehouse operations including fire extinguishers,
- Painting of walls and ceilings of the warehouse every 3 years and daily cleaning of the warehouse
- Maintaining the warehouse environment by periodic fumigation, bird proofing, timely aeration, proper lighting, clean drinking water for the staff, mesh on pipes entering the warehouse, waterproof paint on the ceiling, separate storage of waste and dead stock among other things
- Obligation to operate a physical analysis laboratory in the warehouse if agricultural commodities/goods are being stored
- Maintaining a market bulletin which showcases the market price of the various commodities stored in the warehouse

The companies are also required to operate and maintain a mechanism for the identification and tracing of goods stored in the warehouse. Under the Carriage by Road Act, 2007 and Carriage by Road Rules, 2011, logistics companies are required to ensure that the motor vehicles carrying the goods are not loaded beyond the gross vehicle weight mentioned in the registration certificate of the vehicles. The Food Safety and Standards Act, 2006 and Displaying Food Safety Boards for awareness of consumers Order requires food business operators to display the Food Safety Display Board in a prominent place at their storage premises.

There are also one-time industry-specific approvals that a logistics and supply chain company must acquire. These include the Import Export Code (IEC) Certificate under the Foreign Trade (Development and Regulation) Act, 1992 & Foreign Trade (Regulation) Rules, 1993, registration as a packer under the Legal Metrology (Packaged Commodities) Rules, 2011 and approvals related to labour safety and health among others.



Companies are also required to take environmental clearance approvals, infrastructure and construction approvals, as well as electricity-related approvals from appropriate authorities. Warehouse registration under the Warehousing (Development and Regulation) Act, 2007 and Warehousing (Development and Regulation) Rules, 2017 must be renewed after every 5 years while the registration for carrying on the business of common carrier has to be renewed every 10 years. Companies are also required to renew the permission for the abstraction of groundwater or drilling for industrial purposes every 5 years.

Furthermore, specific schemes, policies and laws have been implemented by the government to promote logistical services such as last-mile delivery in the logistics and supply chain industry. To avail of the benefits under these schemes, logistics and supply chain companies must follow certain compliances.

The most prominent scheme in this regard is the National Logistics Policy (NLP). In addition, the Union Government is working on a draft National Logistics Law, a Logistics Master Plan, a National Grid of Logistics Parks and Terminals, the National Logistics Platform (iLOG), and the development of a National Logistics Workforce Strategy.

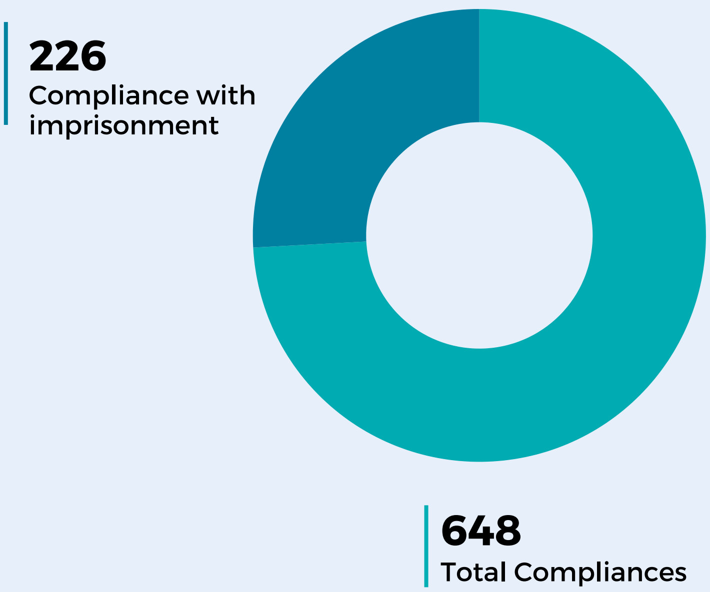
Under the NLP, the objective of the Union Government is to boost the nation's economy and corporate competitiveness. This will be achieved through establishing an integrated, seamless, effective, dependable, green, sustainable and cost-efficient logistics network. The policy has set its target of bringing down the logistics cost from 14% of GDP to 8-9% of GDP. In pursuit of this goal, the policy will establish a single-window e-logistics market and develop the skills, competitiveness, and employment of MSMEs.

The NLP will comprise four major steps, namely, Integration of Digital Systems (IDS), Unified Logistics Interface Platform (ULIP), Ease of Logistics (ELOG), and System Improvement Group. The policy will also benefit from the results of infrastructure programs like the Gati Shakti Programme, Sagarmala Programme, and Bharatmala Programme, which focus on reducing the infrastructure gap in the country and improving connectivity.

State of Criminalisation in the Logistics and Supply Chain Companies

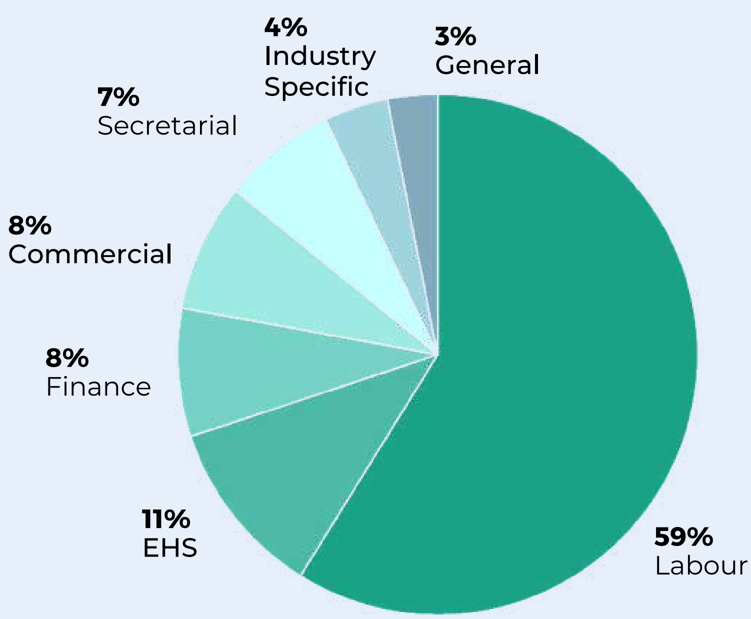
A thorough review of India's business laws reveals that imprisonment has been used as a tool of control against entrepreneurs over the years. The report titled Jailed for Doing Business, co-authored by Gautam Chikermane and Rishi Agrawal, uncovers the nature and extent of the risks of imprisonment faced by entrepreneurs in the country. Of the 1,536 laws that govern doing business in India, more than half (54.9%) carry imprisonment clauses. Among the 69,233 compliances contained in these laws, two out of every five (37.7%) prescribe jail terms for non-compliance. The report highlights that a sizable portion of these clauses criminalises procedural violations and technical lapses rather than serious offences involving willful harm. It illustrates that in many cases, there is an equivalence between punishment for minor errors by entrepreneurs and for death due to negligence under the Indian Penal Code, 1860. Resultantly, the current business environment reflects a sense of distrust and hostility towards companies and raises barriers to the seamless flow of innovation, wealth and jobs in the economy.

Imprisonment clauses as a share of total compliances in the logistics and supply chain industry



With this basic premise of the monograph, Teamlease Regtech has compiled data on the imprisonment clauses facing companies in the logistics and supply chain industry. An MSME with a single entity having operations and a corporate office in a single state deals with 648 compliances in a year. Among them, 226 (or 34.8%) compliances contain imprisonment clauses. Approximately 54% of these clauses are contained in state laws while the rest are within Union laws. Labour laws account for as high as 58% of all the clauses.

Distribution of imprisonment clauses across compliance categories



As evidenced by the data, the implications of non-compliance can be severe. Hence, logistics and supply chain companies must focus on establishing strong control over their compliance obligations. Staying on top of the regulatory changes, filings, permissions, and approvals, among others, must assume priority in the company.

Compliance Challenges for Logistics and Supply Chain Companies

Logistics and supply chain companies have to comply with several hundred acts and rules, depending on the size and geographical footprint of the business. These include the Carriage by Road Act, 2007 & Carriage by Road Rules, 2011 and the Warehousing (Development and Regulation) Act, 2007 & Warehousing (Development and Regulation) Registration of Warehouses Rules, 2017, among others. Furthermore, these laws and regulations are implemented variably at the union, state and municipal levels. For some types of Logistics companies, there is also an added pressure to keep up with the additional compliances contained in the Foreign Trade (Development & Regulation) Act, 1992 and Foreign Trade (Regulation) Rules, 1993.

Outlined below are some of the major compliance challenges faced by the logistics and supply chain industry. Many of these are in congruence with a larger survey of clients conducted by TeamLease Regtech on regulatory complexity and the Ease of Doing Business in India (forthcoming in the India Compliance Report, 2022).

Lack of an Accurate List of Applicable Compliances

A small logistics and supply chain company operating in a single state in India deals with at least 648 compliances in a year. As the company expands its geographical footprint, the number of applicable compliances multiplies significantly. These compliances are at three levels - union, state and municipal. In addition, they are in seven compliance categories - labour, finance and taxation, commercial, secretarial, environment, health and safety (EHS), industry-specific and general. Identification of applicable compliances for a logistics and supply chain company requires deep expertise.

The applicability of compliance changes based on the location of the company (industrial areas, export-oriented units, gram panchayats, special economic zones) and the quantity and privacy pertaining to personal data and sensitive information, given the involvement of multiple stakeholders/IoT users. There are also many challenges with respect to the ever-changing threshold quantity and its notification to the concerned authority.

Apart from the applicable laws and regulations, organisations have to keep a keen eye on product liability and consumer protection, especially if the data or software has been compromised or lost or if any IoT device malfunctions.

Due to these foregoing factors, most logistics and supply chain organisations in India find it challenging to track compliance. The lack of a comprehensive and accurate list of applicable compliances adds to the difficulty in keeping up with the compliance requirements.

Fluid Regulatory Environment

India's regulatory environment is fluid. There are over 3,500 regulatory updates annually published on any of the 2,233 websites of union, state and local government websites via notifications, gazettes, circulars, ordinances, master circulars, and press releases, among others. These updates typically lead to changes in forms, dates, timelines, frequencies, fines, interest rate calculations, applicability threshold values, and letters of the law, among others. Since these changes are often applicable almost immediately, they require a time-sensitive interpretation and implementation. Based on a recent study done by TeamLease Regtech, it was found that there were over 300 regulatory updates that affected an MSME company in the logistics and supply chain industry.

Unfortunately, there is no centralised repository of regulatory updates that provides national, real-time, comprehensive and personalised information on all changes that affect the compliance burden. As a result, the compliance officers are often expected to periodically visit literally hundreds of websites to ensure that they are not missing any critical updates

Poor Tracking and Management of Applicable Licenses

A typical logistics and supply chain company in India deals with various licences. The Food Safety & Standards Act, 2006 mandates a license for a Food Business Operator. Companies also need to deal with the local Municipal Corporations and Warehouse Act to build and operate warehouses.

In addition, there are other licences including shop and establishment registration, certification and standardisation requirements by the Ministry of Commerce and Industry, consent to operate under various air and water regulations under the environmental laws, fire NOCs and hazardous and biomedical waste authorisation, among many others.

Each licence has several parameters including issue date, expiry date, categorisation of industry, terms and conditions of the licence and renewal date. All these licences, registrations, permissions, consent orders and NOCs need to be tracked meticulously to ensure that they are in good order, failing which there can be serious business consequences. Most organisations lack robust processes that provide adequate assurance for statutory license management.

Poor Tracking of Event-Based Compliances

There are a number of instances where the applicability of licenses and compliances changes based on the occurrence of specific business events. As a result, the compliance officer needs to keep his eyes peeled to identify such occurrences and be ready to interpret and implement their impact on the organisation's compliance obligations.

Industry-specific approvals are needed from the Department for Promotion of Industry and Internal Trade (DPIIT) in case of foreign direct investments. Apart from this, there are various compliances under government schemes that incentivise the logistical operations related to the export of goods. To avail of the benefits under these schemes, logistics and supply chain companies must follow certain compliances including submitting monthly, quarterly and annual progress reports in the prescribed format and obtaining a Foreign Inward Remittance Certificate, Bank Realisation Certificate and Import and Export Certificate.

Most logistics and supply chain companies grapple with the challenge of tracking all these applications and their statuses to stay on the right side of the law.

Poor Tracking of Ongoing Compliances

A typical logistics and supply chain company deals with a large number of compliances that are ongoing in nature. For instance, there is a horde of displays requirements pertaining to licenses, registrations, holiday lists, abstracts of legislations, employee-related social security-based displays, labelling, data storage, emergency planning, no smoking, fire exits, danger signs, GST number, among others.

In addition, the company also needs to maintain a variety of registers which should be current at any given time. These include examples such as leave and attendance, maternity benefits, fines and deductions, muster rolls, wage registers, temperature registers, records of disposal of waste, and seven copies of manifest in form 10, among at least 40 other unique registers in various formats. A Logistics company also deals with various kinds of safety audits, environmental audits, and fire drills.

These ongoing compliances, when not adhered to, can result in a high cost of poor compliance. The task of creating, maintaining, reviewing and certifying that these registers are in compliance with the law of the land is the responsibility of different people across the organization. Unfortunately, there are no processes to track and maintain the digital copies of these ongoing compliances and to obtain periodic self-certification from relevant stakeholders.

Lack of Awareness at the Management Level

Based on a recent survey conducted by TeamLease Regtech, it was discovered that the key managerial personnel (KMP) in Indian logistics and supply chain Companies have a poor understanding of compliance obligations in over 75% of the instances.

As a result, they are often unpleasantly surprised in the event of show-cause notices, instances of financial fines and penalties, cancelled licenses, revoked permissions and leaked revenue. Most executives were found to have a very poor handle on the status of key compliances, dates, documentation and residual risk of non-compliance.

Anecdotal Compliance Certification

The Companies Act, 2013 requires the issue of compliance certificates to the Board. Since the organization is low on technology-based tracking systems, the compliance officer has no other choice but to prepare the statutory compliance certificates manually. These certificates often miss key information such as the specific data on an instance of non-compliance, delayed filing and the residual risk of poor compliance. In such instances, the board is often flying blind since they do not have a framework to establish the level of compliance in the company.

Manual, Paper-Based & People Dependent Compliance

A typical mid-sized logistics and supply chain company deals with a few thousand compliances in a year. There are at least 50-100 people in different departments (human resources, finance and taxation, company secretarial, administration, environment, health and safety, warehouse, research and development, etc.) directly involved in day-to-day compliance functions.

Unfortunately, while compliance is a key binding constraint in an organisation's growth, a number of Indian organisations are yet to adopt technology platforms for transparent and accountable compliance programs. The compliance officers often use spreadsheets to track status manually. As a result, there are several instances where there are inadvertent misses, delays, lapses, defaults, expired licenses and missed legal updates. Therefore, it is not uncommon to see them firefighting and highly stressed during regulatory audits.

In a recent survey conducted by TeamLease Regtech among compliance officers of major logistics and supply chain companies, the key findings were as follows:

83%

agreed to have missed at least one critical compliance during the 12 month period

91%

agreed to pay fines and penalties in the 12-month period

92%

believed that they do not have the required visibility and control in their organisation's compliance program

85%

agreed that their compliance needs a serious rethink

73%

of compliance officers believe that third-party consultants have better liaisoning experience than they have internally

67%

agreed to have poor control over their compliance documents

32%

The average cost of compliance consultants stood at approximately INR 100,000 per month, of which labour contributed approximately 32% of the cost

51%

believed that keeping track of regulatory updates is challenging

Rethinking Compliance Management

Conduct a Baseline Applicability Assessment

An important step in streamlining compliance management within the organisation is to create an accurate list of all applicable compliances. In a fluid regulatory environment, the applicability of compliances changes with the use of specific equipment, input raw materials and end products, among others. Hence, staying on top of all compliances and related updates is key. Engaging with a partner vendor to track and create a consolidated assessment of all applicable acts and compliances is critical to effective compliance management.

The partner vendor must bring the depth and width of its experience to analyse and document the compliance obligations across central, state and local laws. In addition, it should help classify all compliance requirements among seven categories - labour, finance and taxation, environment, health and safety (EHS), secretarial, commercial, industry-specific and general. The list should also be sub-classified by compliance type- licences, registrations, permissions, consent orders, returns, registers, challans, payments, displays, audits and examinations, committees, and exemptions among others.

This checklist should serve as a baseline for the organisation and be periodically reviewed and refreshed based on regulatory changes.

Subscribe to National, Realtime and Personalised Regulatory Updates

It is cumbersome for a compliance office to browse a few hundred government websites periodically to ascertain the applicable compliance changes. Hence, it is advisable that the company subscribe to national, real-time, personalised and comprehensive regulatory updates from a third-party vendor.

These updates should be available on a daily, weekly and monthly basis, categorised by Act, law, union/ state, ministry, regulator, nature of change, date of change and applicability, among others. The update should have search, sort and filter capabilities for easy navigation. Mobile apps (iOS and Android) and email-based updates are highly recommended.

There are industry-leading players such as TeamLease RegTech that can provide personalised updates in daily / weekly / monthly newsletters and mobile apps.

Creating a Central Compliance Document Repository

Compliance management generates a lot of paperwork and documentation. These include various applications, forms, receipts and acknowledgements, along with other ancillary documents. The large amount of paperwork necessitates a proper system to manage the life cycle of these critical documents.

An organisation should go paperless. A central repository should be created with digital, verified, version-managed and tamper-proof copies of each document. All working files can be incorporated into the repository as well.

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Digitize Compliance Management

Technology is transforming key business processes. It is making them faster, easier and cheaper. It is also enabling enhanced collaboration and improves human productivity. Data is the new oil and hence, compliance is a key business process that needs to go digital. A preferred software solution should have the features given below:

- Smart Dashboards: Easy to use, real-time, colour-coded with drill-down capabilities
- Native Mobile Apps: iOS and Android-based mobile apps
- Flexible Workflows: Configurable workflows that adapt to the business processes
- Integrated Comprehensive Compliance Database: Extensive and accurate compliance database covering the law of the land
- Strong Analytics and Reporting: Automated and on-demand analytics and reporting capabilities to flag non-compliance and risks
- Integration with office emails: Legal updates/ alerts/ notifications/ reminders/ escalations/ reports on office emails.
- Integrated Document Management System: Manage all compliance documents and working files with version management.
- SAAS Based: Quick and easy to onboard without any additional IT infrastructure and licences.
- Secure and Available: Best-in-class information security with availability when you need it.

Ease of Use

Compliance cuts across an organisation. Employees at various levels of skill, experience and tech-savviness need to feel comfortable using it. It is important to ensure that the software vendor has a product that has a user-friendly interface for easy end-user adoption.

Quick and Easy Deployment

Since Logistics projects are notorious for time and budget overruns, it is important to ensure that end-to-end onboarding happens in minimal time. If it takes more than a few weeks to go live, chances are the project will lose momentum and cause headaches. In addition, the vendor must have strong capabilities in business discovery, compliance applicability assessment, product configuration and end-user training.

SaaS and cloud-based products are preferable as they do not require any on-premises technology infrastructure (such as virtual machines, network resources, storage, firewalls and load balancing, among others).

Pay-as-you-go Pricing Option

Logistic budgets are often stretched. There is a constant tussle between CIO and CFO on additional capital allocation for digitisation projects. Perpetual licensing options can be extremely capital-intensive. Hence, a ‘pay-as-you-go’ pricing model is recommended, as budgetary allocation and approval might become a breeze. Such price options are typically cheaper than the salary of a junior compliance officer.

Create a Culture of Compliance

Compliance management is a breeze if all the stakeholders hold their end of the stick. While one compliance officer takes responsibility, many key folks within the organisation bring their shoulder to the load. Periodic reviews at the department level, functional level and organisational level can make people accountable.

In addition, reviews help bubble up issues before they become urgent and important. An organisation should work with its human resources team and add compliance goals as a part of goal setting and mid-term and annual assessments. Good compliance behavior should be rewarded.

Policy Recommendations for Enabling Ease of Doing Business

Employer compliance in India needs a thorough re-imagination. The country's entrepreneurs cannot compete in the 21st century with the 19th and 20th-century regulatory environment. Teamlease Regtech recommends a three-vector framework to undertake policy reforms for facilitating ease of doing business in the country.

Rationalisation

- There is a lot of duplication, redundancy and overlap across compliances. It is recommended that a detailed analysis of such opportunities be conducted. The list should be classified into items that can be executed by executive order and those requiring legislative change. Based on an initial assessment, at least 20 to 30% of the compliances can be reduced without affecting the outcomes

- The current process of inspections is ad-hoc, manual, paper-based and people-dependent. There is limited transparency and accountability. The inspection process should be reviewed and a risk-based, faceless, presence-less, cashless inspection process should be implemented.

- Opportunities for self-certification and third-party inspections should be rolled out.

- Digital interfaces (new licence applications/ renewals/ return filings/ requests for inspection etc) should be identified and developed.

Digitisation

- There should be a single digital portal for centralised publishing of all regulatory updates across various departments and ministries and at all governance levels. The portal should be a technology utility that should be extended to all relevant stakeholders. It should provide the capability to subscribe to automated alerts based on filters such as type, industry, location and compliance category, among others.

- A digital platform to automate the creation of all regulatory records for compliance should be created. It should also facilitate the safe storage and authentication of such records.

Decriminalisation

- Criminal penalties in business laws should be used with extreme restraint. Misdemeanours such as procedural lapses and technical non-compliances should be punished with financial penalties only whereas criminal penalties should be retained only for serious crimes involving intentional harm.

- A general and indicative set of standards should be adopted to guide lawmakers, executive authorities and regulators in making laws, rules and regulations. Such standards should include principles of necessity and proportionality.

- All imprisonment clauses must go through legislative scrutiny at least once in five years. For this, sunset clauses can be introduced in the legislative process to ensure either the renewal or termination of imprisonment clauses depending on their need and relevance in light of the evolving business climate.

CONTACT US

TeamLease RegTech Pvt. Ltd.

(Formerly - Avantis RegTech Pvt. Ltd.)

Office No. 312 & 313, Kakade Bizz Icon,
Shivajinagar, Pune, Maharashtra 411005.

Bangalore, Mumbai, Kolkata, Hyderabad, Delhi, Chennai, Ahmedabad

9899245318

sales@tlregtech.com

www.teamleaseregtech.com